IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

THURSDAY, THE 4TH OCTOBER 2007 / 12TH ASWINA 1929

WP(C).No. 1555 of 2007(I)

PETITIONER:
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1. SMT.PHILOMINA JOSEPH,
PADAVUPURACKAL AROGYAVILASAM, MANCOMBU,
THEKKEKARA P.O., ALAPPUZHA.

2. JOSEPH THOMAS,
PADAVUPURACKAL AROGYAVILASAM,
MANCOMBU, THEKKEKARA P.O., ALAPPUZHA.

BY ADV. SRI.JOMY GEORGE

RESPONDENTS:
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1. THE GEOLOGIST, SPECIAL OFFICE OF THE
GEOLOGIST, MINING AND GEOLOGY DEPARTMENT,
ALAPPUZHA.

2. DEPUTY SUPERINTENDENT OF POLICE,
CHENGANNUR.

3. REVENUE DIVISIONAL OFFICER,
CHENGANNUR.

4. DISTRICT COLLECTOR,
ALAPPUZHA.

BY GOVERNMENT PLEADER SRI.SABU

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC NO.1555/07

APPENDIX

PETITIONERS EXHIBITS

EXT.P1: TRUE COPY OF THE JUDGMENT DT.12.7.05 IN W.P.NO.15454/05

EXT.P2: TRUE COPY OF THE ORDER PASSED BY THE 4TH RESPONDENT ON 16.10.06.

EXT.P3: TRUE COPY OF THE JUDGMENT DT.19.12.06 IN W.P.NO.5035/06.

EXT.P4: TRUE COPY OF THE MAHAZAR PREPEARED BY THE 3RD RESPONDENT ON 5/1/2007.

EXT.P5: TRUE COPY OF APPLICATION FILED BY THE PETITIONERS BEFORE THE 4TH RESPONDENT ON 8.1.07.

EXT.P6: TRUE COPY OF THE ORDER PASSED BY THE 4TH RESPONDENT ON 11.1.2007 WITH REGARD TO LORRY NO. KL4 L 6991.

EXT.P7: TRUE COPY OF THE ORDER PASSED BY THE 4TH RESPONDENT ON 11.1.07 WITH REGARD TO LORRY NO. KL 7 AC 9336.

EXT.P8: TRUE COPY OF THE ORDER PASSED BY THE 4TH RESPONDENT ON 11.1.0 WITH REGARD TO LORRY NO.KL 4 L 6998.

//TRUE COPY//

ANTONY DOMINIC, J.

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W.P.(C) No. 1555 OF 2007 I
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Dated this the 4th October, 2007

J U D G M E N T

The prayer in this writ petition is to quash Exts. P6 and P8 and to direct respondents 2 to 4 to release the vehicles along with the soil. The contention of the petitioners is that what was transported was ordinary red soil and not river sand to be governed by the Kerala Minor Mineral Concession Rules. According to the learned counsel for the writ petitioners, the provisions of the above rules are not applicable to the red soil that was transported and hence the action taken against the vehicles was totally unwarranted and illegal.

2. In view of the controversy that was raised above, this Court passed order dated 15-1-2007 directing the 4th respondent to take sufficient quantity of samples, seal the same and release the vehicles with the loads on the petitioner depositing the security amount demanded. In pursuance to the said order, it is is now informed that the petitioners deposited the sum

of Rs.15,000/- before the 3rd respondent and the vehicles were released to them.

3. In compliance with the aforesaid order the Geologist examined the sample collected and has forwarded a report to the learned Govt. Pleader to the effect that it was ordinary sand which is not a miner mineral. In view of the report of the Geologist, the proceedings initiated against the petitioner can only be held to be without jurisdiction. Accordingly, Exts. P6 to P8 will stand quashed. In view of the above, the petitioners are entitled to get refund of the amount of Rs.15,000/- that they have deposited with the 3rd respondent in pursuance to the order dated 15-1-2007. The 3rd respondent shall refund the amount without delay on the petitioners producing a copy of this judgment.

ANTONY DOMINIC
JUDGE

jan/-